



Department of Justice

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JUSTICE DEPARTMENT FILES JOINT STATUS REPORT ON MICROSOFT'S COMPLIANCE WITH THE FINAL JUDGMENTS

Justice Department Reaches Agreement With Microsoft Over Google Complaint

WASHINGTON — The Department of Justice told the U.S. District Court for the District of Columbia today that it has reached an agreement with Microsoft Corporation to resolve a complaint by Google regarding Microsoft's desktop search function in Windows Vista. In a joint filing with the court, the Department, 17 state Attorneys General, and the District of Columbia said that the agreement, which aims to promote user choice, will resolve any issues the complaint may raise under the final judgments. The desktop search functionality in Vista, known as "Instant Search," allows users to enter a search query into a text box and receive a list of results from the user's hard drive that contain the search term.

The Department's Antitrust Division made its views known today as part of a six-month joint status report to Judge Colleen Kollar-Kotelly of the U.S. District Court for the District of Columbia. The report filed with the court today is the eighth such report filed since the court entered the final judgments in November 2002.

"Through a constructive and ongoing dialogue, the Department, the state Attorneys General, and the District of Columbia continue to ensure that Microsoft complies with all of its obligations under the final judgments," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "In addition to reaching an agreement with Microsoft to resolve any issues about desktop search under the final judgments, the Antitrust Division has worked to ensure that Microsoft fully discloses and provides complete technical documentation for all protocols covered by the decrees."

In its filing, the Department also reported that Microsoft is continuing its efforts to improve the technical documentation provided to licensees under the final judgments. The Department said that the technical documentation project is proceeding on schedule and that it is encouraged by the quality of the documentation that is now being produced by Microsoft. The Department noted that Microsoft will be documenting additional protocols that were discovered as a result of an audit that the company conducted to ensure that all necessary protocols are included in the project. Further, the Department reported that the Technical Committee (TC) appointed under the final judgments has retained consulting firms to conduct a parallel review of Microsoft's protocol audit process and to develop methods for searching the Windows source code to ensure that all necessary protocols are properly documented. The Department also informed the court that if the Milestone Longhorn portion of the documentation project is not substantially complete, the current royalty holiday will be extended by 18 months for all

licensees. Under the royalty holiday, licensees are not required to pay any fees until government enforcers are satisfied that the rewritten technical documentation is substantially complete. In addition, if the government enforcers ultimately conclude that the entire set of revised technical documentation is not substantially complete, the royalty holiday will be extended by three years for all licensees.

The Department noted that the TC has identified a number of middleware-related “bugs” relating to Windows XP, Windows Media Player, and Internet Explorer, and it is expected that Microsoft will address the issues before the expiration of the relevant portions of the final judgments in November 2007.

The filing also states that after reviewing reports and testimony in a private class action lawsuit, *Comes v. Microsoft Corp.*, the Department has found no evidence thus far that Microsoft has not fully disclosed the application programming interfaces (APIs) required by the final judgments. However, the Department remains open to reviewing any additional information.

In the agreement to resolve the desktop search complaint, Microsoft must:

- Create a mechanism for end users and original equipment manufacturers (OEMs) to select a default program to handle desktop search and enable independent software vendors (ISVs) to register their desktop search products for this default in the same way that ISVs can register third-party Web browsers and media players as the default in Windows today;
- Ensure the default desktop search program will be launched whenever Windows launches a new top-level window to provide search results; and
- Inform ISVs, OEMs, and end users that the desktop search index in Vista is designed to run in the background and cede precedence over computing resources to any other software product.

Microsoft will deliver the required changes in the beta version of Service Pack 1 of Windows Vista, which is scheduled to be delivered by the end of 2007.

The Microsoft final judgments are scheduled to expire in November 2007. Certain provisions of the final judgments relating to protocol licensing have been extended to November 2009. Microsoft has also agreed that the Department and state antitrust enforcement agencies may, at their discretion, apply to the court in fall 2009 for an additional extension to all or part of the extended provisions of the final judgments for a period of up to three additional years, through November 2012.

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The next status conference hearing will take place on Tuesday, June 26, 2007, before Judge Kollar-Kotelly.

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